



Winston H. Hickox
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State Water Resources Control Board

Division of Water Rights

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Division of Water Rights: <http://www.waterrights.ca.gov>



Gray Davis
Governor

NOTICE OF APPLICATION TO APPROPRIATE WATER BY PERMIT

APPLICATION: 31370

DATE FILED: November 4, 2002

Notice is hereby given that San Bernardino Municipal Water District and Western Municipal Water District of Riverside County (Muni/Western) have filed an application for a water right permit for diversion of water from Santa Ana River tributary to Pacific Ocean and from Bear Creek, Breakneck Creek, Keller Creek and Alder Creek, tributary to Santa Ana River in San Bernardino County. The State Water Resources Control Board (SWRCB) will determine whether a water right permit should be issued for the application and, if so, whether conditions should be included in the permit to protect the environment and other downstream water users. This notice provides a description of the proposed project and also describes the procedure and time frame for submittal of a protest against the application. This notice and future notices of applications to appropriate water by permit, may be viewed and printed from the Division of Water Rights (Division) web-site at www.waterrights.ca.gov. Any correspondence to the applicant shall be mailed to:

San Bernardino Municipal Water District and
Western Municipal Water District of Riverside County
c/o Mr. David R.E. Aladjem
555 Capitol Mall, 10th Floor
Sacramento, CA 95814-4686

Special Note: Pursuant to the Division's consolidation order dated January 24, 2003, the protest period for related Applications 31165 of San Bernardino Valley Municipal Water District and Western Municipal Water District and 31174 of Orange County Water District is extended to the close of the protest period for this application. In addition to other requirements, protestants should specify which objections in the protest apply to which applications.

DESCRIPTION OF THE PROJECT

Applicants seek a right to appropriate water from the flows of the Santa Ana River in accordance with the terms of certain court judgments allocating those flows. On July 2, 2002 the SWRCB adopted Order WR 2002-0006 amending SWRCB Order WR 98-08 (Declaration of Fully Appropriated Streams) to allow for the processing of this application. This is the second Application of Muni/Western to be processed under these proceedings in the Santa Ana River Watershed. SWRCB Order WR 2000-12 previously allowed for the processing of Application 31165 of Muni/Western and its public notice on January 11, 2002.

Specifically, the applicant seeks to appropriate a maximum of 50,000 acre-feet per annum (afa) to surface storage at Seven Oaks Dam and up to 100,000 afa to existing underground storage facilities for subsequent extraction and use. Applicant also requests the right to appropriate up to 1100 cubic feet per second (cfs) by direct diversion. The project will be operated so that the total combined water

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Additional copies of this form and water right information can be obtained at www.waterrights.ca.gov.

appropriated as a combination of storage and direct diversion does not exceed 100,000 in any year. The water will be used for municipal, industrial, irrigation, heat control, frost protection and recreation within the applicant's respective districts.

According to Water Code section 1348, a minor project diverts less than or equal to 3 cubic feet per second (cfs) by direct diversion or 200 acre-feet (af) per year by storage. A major project diverts greater than 3 cfs by direct diversion or 200 af per year by storage. **This is a "major" project (greater than 3 cfs by direct diversion or 200 af per year by storage) as defined by section 1348 of the Water Code.**

APPLICATION INFORMATION

The applicant proposes to divert water at the following facilities:

- POD #1, 2, 3, 4, 5, 8, 11, 12, 13, 14, 15, 16 and 17: Santa Ana River tributary to Pacific Ocean.
- POD #6: Bear Creek tributary to Santa Ana.
- POD #7: Breakneck Creek tributary to Santa Ana River.
- POD #9: Keller Creek tributary to Santa Ana River.
- POD #10: Alder Creek tributary to Hemlock Creek thence Santa Ana River.

Points of Diversion are located as follows and as shown on a map on file with the SWRCB:

Within Section 4, T1S, R2W, SBB&M:

- POD #1 & 11: within NE $\frac{1}{4}$ of NW $\frac{1}{4}$
- POD #2 & 12: within SW $\frac{1}{4}$ of SW $\frac{1}{4}$
- POD #3, 4, 13 & 14: within SE $\frac{1}{4}$ of NW $\frac{1}{4}$
- POD #15: within SE $\frac{1}{4}$ of NE $\frac{1}{4}$
- POD #16 & 17: within NW $\frac{1}{4}$ of SW $\frac{1}{4}$

Within Section 19, T1N, R1W, SBB & M:

- POD #5 & 6: within SE $\frac{1}{4}$ of NE $\frac{1}{4}$
- POD #7: within NW $\frac{1}{4}$ of SE $\frac{1}{4}$

Within Section 26, T1N, R2W, SBB & M:

- POD #8: within SW $\frac{1}{4}$ of NE $\frac{1}{4}$
- POD #9: within NW $\frac{1}{4}$ of NE $\frac{1}{4}$
- POD #10: within NW $\frac{1}{4}$ of NW $\frac{1}{4}$

The diversion and place of use are located within the County of San Bernardino.

Amount of water applied for:

- (A) 1100 cfs (Direct Diversion), not to exceed a total of 100,000 AFA.
- (B) 100,000 AFA (Storage).

The total combined amount taken by direct diversion and/or storage shall not exceed 100,000 AFA.

The applicant has requested to divert water from: January 1 to December 31.

ENVIRONMENTAL INFORMATION

According to the California Environmental Quality Act (CEQA) and its guidelines, **San Bernardino Valley Municipal Water District/Western Municipal Water District of Riverside County** is the lead agency and will be responsible for preparation of appropriate environmental documents for the project and for determining whether or not the project will cause a significant effect on the environment. If you are not filing a protest, but wish to submit information which indicates that the project may cause a significant effect on the environment, please send this information to the lead agency immediately and also to Ms. Jane Farwell, SWRCB, Division of Water Rights, P.O. Box 2000 Sacramento, CA 95812-2000. This information will be reviewed in accordance with CEQA.

PROCEDURE FOR SUBMITTING PROTESTS

Any person may file a protest against the application. Protests should be submitted on standard protest forms available from the Division's web-site at www.waterrights.ca.gov/forms/, but can be submitted in letter form. A pamphlet that provides additional information relating to water rights and the procedure for filing protests can be obtained from the contact person listed below. The protest should be submitted to:

Mitchell Moody
State Water Resources Control Board
Division of Water Rights
P.O. Box 2000
Sacramento, CA 95812-2000

In addition, the protestant must send a copy of the protest to the applicant.

Protests filed in response to this notice must either be postmarked, faxed to (916) 341-5400, or hand-delivered to the office of the SWRCB's Division of Water Rights (1001 "I" Street, 14th Floor, Sacramento, CA) **by 3:00 p.m. on the 60th day** after the date of this notice (the close of the protest period). If you choose to fax the protest due to the constraints of the noticing period, the fax must be followed by timely delivery of an original copy, either personally or by mail, to the Division of Water Rights in order for the protest to be accepted. **Protests not submitted by the close of the protest period will be subject to rejection.**

For good cause, the SWRCB may grant an extension of time to file a protest. It is the protestant's responsibility to contact the engineer listed below to request the extension prior to the end of the protest period. The SWRCB will respond to all protests within 60 days of the final day to file a protest.

PROTEST REQUIREMENTS

Parties may file protests based on any of the following factors:

- Injury to existing water rights.
- Adverse environmental impact.
- Not in the public interest.
- Contrary to law.
- Not within the jurisdiction of the SWRCB.

All protests must clearly describe the objections to approval of the application and the factual basis for those objections. If the objection is based on injury to existing water rights, the protest must describe the specific injury to the existing water right that would result from approval of the application. In addition, the party claiming injury to prior water rights must provide specific information that describes the basis of the existing right, the date the use began, the quantity of water used, the purpose of use and the place of use. Please note that any water right permit issued by the SWRCB is subject to and includes conditions to protect vested water rights.

If the protest is based on environmental grounds, or other factors listed above, the protest must be accompanied by a statement of facts supporting the basis of the protest. The protest shall include a description of any measures that could be taken to resolve the protest, including modification of the application (i.e., amount, season of diversion, etc.) or conditions (i.e., fish bypass flow, measuring device, etc.) that could be included in the water right permit. If sufficient information is not submitted, the SWRCB may reject the protest or request that the protestant submit additional information.

RESOLUTION OF PROTESTS

The protestant(s) and the applicant are encouraged to discuss methods that could be used to resolve the protest. If the protest(s) can not be resolved, the SWRCB may conduct a field investigation for minor projects, or hold a water right hearing for major projects.

CONTACT PERSON

To obtain additional information regarding this project, or to obtain copies of the protest forms or pamphlet, please contact Mitchell Moody by phone at (916) 341-5383 or by electronic mail at mmoody@waterrights.swrcb.ca.gov. Protest forms and a copy of the January 24, 2003 consolidation order may also be obtained from the Division's website at www.waterrights.ca.gov.

DATE OF NOTICE: 1-31-03